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C O N F I D E N T I A L SECTION 01 OF 02 SANTO DOMINGO 000745

SIPDIS

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SUBJECT: DOMINICAN BANKING SERIES #4: BANCREDITO AND
BANINTER MANEUVERS

REF: A. A) 03 SANTO DOMINGO 06671

[1](#)B. B) 03 SANTO DOMINGO 06857

[1](#)C. C) 03 SANTO DOMINGO 07566

Classified By: DCM Lisa B. Kubiske, Reason 1.5 (b) and (d).

[1](#)1. This is the fourth cable in a series on the Dominican
Banking Sector.

BANCREDITO AND BANINTER MANEUVERS

(U) Baninter and Bancredito are no more. Baninter has been dissolved and Bancredito has been sold to Grupo Leon and renamed Banco Leon. Although the legal entities no longer exist, the legacies of their failures continue to plague Dominican citizens. The debt incurred by the Central Bank in guaranteeing accounts and loans at the banks is a major factor in the current economic crisis. In addition, the conduct of the cases has done little to rebuild -- or establish -- confidence in Dominican administration of justice. However, not all avenues have been exhausted.

BANCREDITO - District Attorney won't prosecute, so the
Central Bank finds another route

(U) District Attorney Maximo Aristy Caraballo announced on January 28 that he will not pursue criminal prosecutions in the Bancredito case, since "the alleged fraud is a matter for the civil courts." He thereby declined to entertain the complaint lodged with him in November by the Central Bank legal team. Within 24 hours Central Bank attorneys took advantage of a procedural mechanism to file their criminal complaint directly with the administrator of courts. The administrator has assigned the case to a judge of instruction, charged to assemble evidence and review charges to determine if there is sufficient grounds for a full criminal trial. If so, a second judge (or judiciary panel) will be assigned to hear the case.

(C) This unusual procedural posture became the Central Bank's only recourse to pursue a criminal case after the District Attorney's refusal to bring charges. As reported in November in our Banking Series #2, the District Attorney issued arrest warrants for Bancredito officials Arturo Pellerano and his vice president Mendoza but withdrew them on the next working day at the instructions of President Mejia and Attorney General Victor Cespedes. At the time, the President, Attorney General and District Attorney all said they would study the evidence and charges, so the case was not being dropped. They took their time. During the December holidays Mejia told a Central Bank attorney the case would move forward by January 3rd. Nothing happened until the District Attorney's disappointing announcement at the end of the month.

(U) The press put a spotlight on the District Attorney's decision not to prosecute. The Central Bank legal team countered the coverage with a scathing ad in the dailies, scolding Aristy for failing to consult or study the evidence: "The decision of the prosecutor has opened a new avenue for the 'powerful' of our country to enjoy impunity." All four attorneys signed the letter with its declaration that they refused to stand by and let case go unprosecuted.

(SBU) Bancredito president Pellerano has been in the United States since shortly after the Central Bank first filed its case in November. He is attending to the gravely ill patriarch of the Pellerano clan. The Pelleranos have been hard hit by the bankruptcy of TRICOM, their Dominican-based multinational telecoms operator, listed on the New York stock exchange but currently in restructuring with accord of bondholders. Their minority share holdings are worth just about zero and they have had no management oversight for some time. Pellerano may be attending to other family business, taking advantage of his liberty to shield other assets.

BANINTER - Judge challenged, case stalled

(C) At a time when banking frauds have ignited inflation and peso devaluation for the presidential campaign, the District

Attorney's decision not to prosecute on Bancredito combines uneasily with last Christmas Eve's release of Baninter accused Ramon Baez and Marcos Baez Cocco. The investigation against them is currently suspended, due to a defense petition to the Supreme Court asserting that investigating Judge Eduardo Sanchez Ortiz is biased. Last week the Attorney General filed a brief opposing the removal of Judge Sanchez. Until the Supreme Court examines the petition, Judge Sanchez's hands are tied. He cannot even file for his sixth extension of the time allotted for investigation of this complex and highly political case. The Baez defense team moved its petition into the public spotlight on February 4, when it placed full page ads in local dailies with Judge Sanchez's photo and a listing of the defense position on why Judge Sanchez should be removed from the case.

(C) Dominican expectations of mishandled justice may yet be proven wrong. For one thing, President Mejia has told us, privately, that he will prosecute all those responsible. For another, the press is on the scent. In its lead editorial of January 30, Listin Diario highlighted an AP report that "put its finger directly on the wound in a single paragraph, and we quote, 'The Dominican Republic went to the IMF when the deterioration of its economy was aggravated by a fraud totaling USD 2 billion in one of the most important banks in the country!' The Central Bank team is tenacious and ready to go public, while overt meddling by administration officials is unlikely, especially during a difficult presidential campaign. Hope rests in the last instance, however, on the judicial system and its relatively unproven ability in these circumstances to resist pressure and bribery.

12. (U) Drafted by Angela Kerwin and Michael Meigs.
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